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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1858**

State of Minnesota,
Respondent,

vs.

James Zlanworse Seekie,
Appellant.

**Filed October 12, 2020
Affirmed
Frisch, Judge**

Hennepin County District Court
File Nos. 27-CR-19-270, 27-CR-19-271, 27-CR-19-2517

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Gary K. Luloff, Heidi M. Torvik, Chestnut Cambronne PA, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, John Donovan, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Reilly, Judge; and Reyes,
Judge.

UNPUBLISHED OPINION

FRISCH, Judge

Appellant challenges his convictions of violating an order for protection (OFP), arguing that the district court erred by suppressing evidence intended to challenge the underlying OFP and by admitting evidence of prior bad acts. We affirm.

FACTS

On November 15, 2018, the district court granted victim's petition for an OFP and served appellant James Zlanworse Seekie with an order prohibiting him from direct or indirect contact with victim. Shortly thereafter, victim reported that Seekie called and sent text messages to her. Seekie told the responding officer that he understood he should not have contacted victim and would not contact her again. At a later date, Seekie sent text messages to victim's mother and threatened to release damaging information about victim unless victim agreed to revisit the OFP. Seekie also moved the district court for reconsideration of the OFP and mailed victim a copy of the motion. Victim reported these additional contacts to law enforcement. Seekie told the responding officer that he intentionally violated the OFP because he was upset about its conditions and wanted to go back to court.

On January 4, 2019, the state filed two misdemeanor complaints against Seekie for violation of the OFP pursuant to Minn. Stat. § 518B.01, subd. 14(b) (2018). Soon thereafter, victim reported receiving additional text messages and phone calls from Seekie. On January 28, 2019, the state tab-charged Seekie with an additional misdemeanor count of violating the OFP.

The parties agreed to consolidate the charges for trial. Seekie attempted to subpoena lawyers and judicial officers involved in the original OFP proceedings. In response, the state moved to preclude Seekie from arguing that the OFP should not have been granted. The district court granted the state's motion.

Victim and the responding officers testified at trial. Early in victim's direct examination, the state asked victim why she had petitioned for an OFP. Victim responded by recounting an incident in which Seekie physically abused her and later sent threatening text messages to her. Seekie did not object to this testimony.

The state also introduced copies of the OFP into evidence to establish its restrictions. The OFP recited victim's allegations that Seekie had abused and threatened her as well as Seekie's denial of the allegations. The district court asked Seekie whether he objected to admission of the OFP, and he responded, "No." Neither party requested any redaction of the OFP.

During trial, Seekie repeatedly attempted to introduce evidence challenging the OFP. The state objected to the evidence, and the district court sustained those objections.

The jury found Seekie guilty of all charges. This appeal follows.

D E C I S I O N

I. The district court did not deny Seekie the right to present a complete defense.

Seekie first argues that the district court erred by suppressing evidence challenging the validity of the underlying OFP and therefore denied him the right to contest an element of the charged offenses.

Due process requires that every defendant be given “a meaningful opportunity to present a complete defense.” *State v. Richards*, 495 N.W.2d 187, 191 (Minn. 1992) (quoting *California v. Trombetta*, 467 U.S. 479, 485, 104 S. Ct. 2528, 2532 (1984)); accord U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7. “To vindicate these rights, courts must allow defendants to present evidence that is material and favorable to their theory of the case.” *State v. Crims*, 540 N.W.2d 860, 865 (Minn. App. 1995), *review denied* (Minn. Jan. 23, 1996). However, a defendant does not have a right to introduce irrelevant evidence. *Id.*; see also Minn. R. Evid. 402 (“Evidence which is not relevant is not admissible.”). Evidence is relevant when it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401.

Even when excluded evidence affects a defendant’s right to present a complete defense, we review an evidentiary ruling for an abuse of discretion. *State v. Penkaty*, 708 N.W.2d 185, 201 (Minn. 2006). We defer to a district court’s “wide discretion in matters concerning the relevancy of evidence.” *State v. Davis*, 685 N.W.2d 442, 446 (Minn. App. 2004), *review denied* (Minn. Oct. 27, 2004).

The evidence Seekie attempted to introduce to challenge the validity of the underlying OFP is not relevant to any element of the crime. The applicable statute provides: “whenever an order for protection *is granted* by a judge[,] . . . and the respondent or person to be restrained knows *of the existence* of the order, violation of the order for protection is a misdemeanor.” Minn. Stat. § 518B.01, subd. 14(b) (emphasis added). Accordingly, the elements of the charged crime are that (1) an OFP was in effect, (2) the

defendant knew of the order, and (3) the defendant violated a term or condition of the order. *See id.* A defendant's disagreement with the underlying order is not an element or defense.¹ *See State v. Romine*, 757 N.W.2d 884, 890 (Minn. App. 2008) (rejecting a collateral attack to validity of an OFP), *review denied* (Minn. Feb. 17, 2009).

Seekie argues that the “validity” of an OFP is an implicit element of the crime of violating an OFP. Although Seekie does not specify on appeal why the OFP was invalid, our review of the record shows that Seekie conceded at trial that the OFP was a binding court order. As set forth in his subpoenas, Seekie desired to use his trial as “a platform to express the need for reforming the criminal justice system.”² During trial, he attempted to present testimony that the justice system had failed him and emphasized that the OFP limited his access to the child he shares with victim. In other words, Seekie did not challenge whether the OFP was *enforceable* but instead argued that the issuance of the OFP was *unwarranted*. We agree with the district court that this evidence is not probative of whether Seekie committed the criminal act of violating the OFP. Accordingly, the district court did not abuse its discretion by concluding that evidence challenging the validity of a binding OFP was irrelevant.

¹ Seekie relies on our nonprecedential opinion in *State v. Rodriguez*, No. A07-2179, 2009 WL 233869 (Minn. App. Feb. 3, 2009). But in *Rodriguez*, we addressed whether a subsequent order quashed an OFP, not whether an OFP was wrongly issued. 2009 WL 233869, at *2. Here, Seekie does not claim that the district court issued any subsequent order negating the effectiveness of the OFP.

² The right to present a complete defense arguably includes a defendant's “right to explain [his] conduct to a jury.” *State v. Wiltse*, 386 N.W.2d 315, 317 (Minn. App. 1986) (quotation omitted), *review denied* (Minn. June 30, 1986). Here, the district court allowed Seekie to testify extensively about his personal motives.

II. Any evidentiary errors did not affect Seekie's substantial rights.

Seekie also argues that the district court committed reversible error by admitting into evidence unredacted copies of the OFP and by allowing victim to testify that Seekie had abused her. Seekie admits that he did not object to the introduction of any of this evidence at trial.

When a party fails to object to the admission of evidence at trial, the party generally forfeits the right to appeal admission of that evidence. *State v. Vasquez*, 912 N.W.2d 642, 649 (Minn. 2018). However, we retain discretion to review the evidentiary ruling for plain error affecting substantial rights. Minn. R. Crim. P. 31.02; *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). Plain error exists when a district court commits (1) an error (2) that was plain and (3) that affected the defendant's substantial rights. *Griller*, 583 N.W.2d at 740. If all three requirements exist establishing plain error, we may reverse if the error affected the fairness and integrity of judicial proceedings. *State v. Strommen*, 648 N.W.2d 681, 686 (Minn. 2002). The defendant bears the burden of establishing by a reasonable likelihood that the absence of the alleged error would have affected the jury's verdict. *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016).

We need not address whether the district court plainly erred, because we conclude that any error did not affect Seekie's substantial rights. *See State v. Webster*, 894 N.W.2d 782, 786 (Minn. 2017) (explaining that if any requirement of plain-error doctrine is unsatisfied, we need not consider remaining requirements). An evidentiary error does not affect a defendant's substantial rights where overwhelming evidence of guilt otherwise exists. *State v. Noor*, 907 N.W.2d 646, 657 (Minn. App. 2018), *review denied* (Minn. Apr.

25, 2018). Here, the state presented overwhelming evidence of Seekie's guilt with respect to all charges.

As to the first charge, victim testified that Seekie sent text messages in violation of the OFP. The responding officer verified that Seekie sent text messages and made phone calls after the OFP had been issued. The officer testified that Seekie admitted contacting victim in violation of the OFP.

As to the second charge, victim testified that she received a letter from Seekie's address and that Seekie sent text messages to her family in December 2018. The responding officer reviewed the messages, in which Seekie attempted to convince victim's mother to encourage victim to seek dismissal of the OFP. The officer further testified that Seekie admitted that he intentionally violated the OFP and "that he had contacted some people requesting that they would contact [victim] to get her to essentially go back to court."

As to the third charge, victim testified that she received text messages and phone calls from Seekie in January 2019. The responding officer testified that he verified those messages and calls.

Seekie produced little evidence to contest whether he violated the OFP and only attempted to introduce evidence relevant to the second charge. First, Seekie contended that the letter victim received was addressed to a judge. Second, Seekie argued that the officer did not verify with victim's mother that she received text messages from Seekie and instead relied on the messages as displayed on victim's phone. Seekie's primary argument at trial was that the OFP itself was unjust—an issue not relevant to any element of the crime.

Further, the OFP itself contains findings favorable to Seekie, describing “credible evidence . . . that [victim’s] testimony was not true and motivated by wanting to punish [Seekie] for not agreeing to marry her” and concluding that victim failed to establish by the preponderance of the evidence that physical abuse occurred. Indeed, at trial, Seekie instructed victim to read these passages from the OFP to the jury in an attempt to cast doubt on her credibility.

Because any evidentiary errors did not affect Seekie’s substantial rights, we decline to order a new trial.

Affirmed.